

January 24, 1995

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Kathleen M. Wallman,  
Chief  
Common Carrier Bureau  
Federal Communications Commission  
2033 M Street, N.W., Suite 500  
Washington, D.C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION**  
**OFFICE OF SECRETARY**

Re: COMSAT Corporation/COMSAT World Systems  
Petition for Partial Relief From the Current  
Regulatory Treatment of COMSAT World Systems'  
Switched Voice, Private Line, and Video and  
Audio Services, RM-7913

Dear Ms. Wallman:

Pursuant to its general obligation to update the Commission on facts relevant to its pending submissions before the agency, COMSAT Corporation, through its COMSAT World Systems line of business (hereinafter "COMSAT"), respectfully provides the agency with the following data pertinent to the above-referenced petition.<sup>1</sup> This information consists of objectively verifiable facts which developed after the Petition for Partial Relief and support

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<sup>1</sup> See COMSAT Corporation & COMSAT World Systems, Petition for Partial Relief From the Current Regulatory Treatment of COMSAT World Systems' Switched Voice, Private Line, and Video and Audio Services, RM-7913 (filed July 1, 1994) [hereinafter "Petition for Partial Relief"], supplementing Communications Satellite Corporation, Petition for Rulemaking to Modify the Regulatory Treatment of COMSAT World Systems' Multi-Year Fixed-Price Carrier-to-Carrier Contract-Based Switched Voice Services, RM-7913 (filed January 30, 1992).

materials were filed.<sup>2</sup> Therefore, the Commission is authorized to take official notice of these developments.<sup>3</sup>

The Petition for Partial Relief and the accompanying Brattle Study provided detailed facts to demonstrate that the market for trans-oceanic telecommunications facilities is substantially competitive -- on both an intermodal and intramodal basis -- and thus warrants relaxation of COMSAT's regulatory treatment.<sup>4</sup> This conclusion was based largely on two factors: (1) the high level of unused capacity available to users of trans-oceanic facilities, provided by facilities either in existence as of June 24, 1994, or "planned" facilities scheduled to become operational by the end of

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<sup>2</sup> In conjunction with the Petition for Partial Relief, COMSAT filed the so-called "Brattle Study," a 200-page, fact-based economic analysis of the state of competition in the market for trans-oceanic transmission facilities. See Hendrik S. Houthakker & The Brattle Group, Competition in the Market for Trans-Oceanic Facilities-Based Telecommunications Services (dated June 24, 1994) (filed with the agency in RM-7913 on July 1, 1994).

<sup>3</sup> See, e.g., Advanced Business Communications, Inc., 2 FCC Rcd. 3751, 3752 (CCB 1987), quoting 4 Mezines, Stein, Gruff, Administrative Law § 25.01 ("Official notice not only involves the acceptance of commonly known facts [i.e., judicial notice], but allows an administrative agency to take notice of technical or scientific facts which are within the agency's area of expertise."). Cf. 47 U.S.C. § 309(d)(2) (FCC empowered to take "official notice" of facts in licensing); Fed. R. Evid. 201(b) (judicially noticed fact not subject to reasonable dispute because it is either generally known or capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably questioned).

<sup>4</sup> These facts were presented within the framework established by the Commission for evaluating competition in a telecommunications marketplace. See Interstate Interexchange Marketplace, 6 FCC Rcd. 5880 (1991) (extensively cited the Petition for Partial Relief as "Interexchange Competition Order").

1996,<sup>5</sup> and (2) the sophistication of customers in the marketplace, who are knowledgeable about competitors' facilities and willing to take advantage of these alternatives in the marketplace.

The developments noted below occurred after the COMSAT filing on July 1, 1994. Some items involve cable systems or satellites that were treated in the Brattle Study as merely "planned" facilities but which now should be considered existing facilities. Other items concern newly announced plans for facility construction or customer agreements that only recently were disclosed to the public. These developments are:

- The AMERICAS-I fiber-optic submarine cable system, which links Florida with St. Thomas, Brazil, Trinidad, and Venezuela, began providing commercial service on Sept. 1, 1994. The cable system is owned by a consortium consisting of AT&T Corp., MCI International, Inc., and 62 other carriers from 42 countries. The UNISUR Cable (now in planning stages) will extend service from Brazil to Argentina and Uruguay. AMERICAS-I also is interconnected to the Taino-Carib fiber-optic cable system, which provides regional service for Puerto Rico and Tortola, and to the COLUMBUS II fiber-optic cable system, which initiated service in December 1994 (noted below). See, e.g., M2 Communications Ltd., Presswire, Sept. 1, 1994; Telecommunications Reports International, Sept. 16, 1994.
- CANTAT-3, a "supercapacity" fiber-optic trans-Atlantic cable, was put into service by Teleglobe Canada, British Telecom, and other partners on Nov. 15, 1994. Among other services, the facility provides for video transmissions between the United States and United Kingdom. A Teleglobe spokesman reportedly stated that the new cable facility was "taking away [video transmission] business from COMSAT that had been on the Intelsat 601. The fiber optic cable provides the same service

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<sup>5</sup> The Brattle Study employed a conservative method of statistical analysis, relying only on data publicly available on or before June 24, 1994, concerning both existing and planned facilities. See Petition for Partial Relief at 21 & n.64 (citing Brattle Study at 8 n.10).

at a lower price and better quality." See Communications Daily, Oct. 19, 1994, at 7; Satellite News, Dec. 19, 1994.

- The SEA-ME-WE 2, the first cable under the Indian Ocean, initiated service in October 1994. The fiber-optic system is owned by a consortium led by Singapore Telecom USA and including AT&T, Sprint, and MCI, and links 13 countries in Southeast Asia, the Middle East and Western Europe. See Communications Daily, Oct. 21, 1994.
- PanAmSat signed a long-term agreement with Arter, an Argentinian television network, for a range of broadcast services using the PAS 3 satellite. These services include news-gathering uses and distribution of Arter programming throughout Argentina and elsewhere in the Western Hemisphere, including the United States. See Satellite News, Nov. 7, 1994.
- Flag, a consortium led by Nynex, announced plans to establish an international submarine cable system. The Flag system, scheduled to begin operation in 1997, will run from the United Kingdom to Japan, with landfalls in Spain, Italy, Egypt, the United Arab Emirates, India, Thailand, Malaysia, Hong Kong, and Korea. Flag also announced plans to form an alliance with Teleglobe to link the Flag system with CANTAT-3, creating a 36,000 kilometer global system spanning two-thirds of the earth's circumference. See, e.g., Telecommunications Reports, Nov. 28, 1994; Telenews Asia, Dec. 1, 1994; Communications Daily, Dec. 16, 1994.
- Orion Network Systems, Inc. and its partners launched the Orion I satellite on November 29, 1994. The satellite is designed to provide communications links between the United States and Europe. See, e.g., As Rocket Rises, A Tiny Md. Firm Takes On INTELSAT, Wash. Post, Nov. 30, 1994, at F1.
- MCI International, Inc. began providing commercial service on the COLUMBUS II submarine cable system on Dec. 15, 1994. The fiber-optic cable is owned by a consortium of 61 carriers and links Florida with Mexico, St. Thomas, Italy, Portugal, and Spain. See M2 Communications Ltd., Presswire, Dec. 15, 1994.
- More than 40 representatives of telecommunications carriers met in Montreal recently to arrange purchase of capacity on CANUS-I, which links the United States to Canada and the new CANTAT-3 trans-Atlantic cable system. Owners Teleglobe, Inc., and Optel Communications announced that capacity was being sold on an indefeasible-right-of-use basis. See Telecommunications Reports International, Jan. 6, 1995.

Should you have any questions with respect to these factual developments, please contact the undersigned.

Given the rapid growth of competition among international facilities suppliers, COMSAT believes that the public interest would be best served by expedited treatment of its request for relief. COMSAT therefore urges expedited consideration of the pending Petition for Partial Relief.

Respectfully submitted,

A handwritten signature in black ink, reading "Howard D. Polsky". The signature is written in a cursive, flowing style with a large, sweeping flourish at the end of the last name.

Howard D. Polsky  
Vice President, Legal Affairs  
COMSAT World Systems